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FARM
PRACTICES
BOARD

Performance Plan

2001/02 | 2003/04

BRITISH COLUMBIA

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INTRODUCTION

Farming has always been important to British Columbia. Today, as both our population and our need for agricultural and aquacultural food products continue to grow and put pressure on rural lands, harmonious relations between farming and non-farming interests are more important than ever.

The *Farm Practices Protection (Right to Farm) Act* (the *Act*) provides a balanced approach to resolving concerns about farming for the increasing number of British Columbians who live near operating farms. The *Act* links the "right to farm" concept with local government bylaw powers. The *Act* protects farmers who use normal farm practices, encourages local governments to support farming through their local plans and bylaws, and creates a process to resolve complaints about farm practices.

The Farm Practices Board (FPB), which was created under the *Act*, is an independent administrative tribunal that is responsible for hearing complaints about odour, noise, dust or other disturbances arising from farm practices. The FPB also uses a settlement process to promote the resolution of disputes without the need for formal hearings before a panel of the FPB.

This three-year performance plan profiles the work of the FPB and outlines its main goal, key strategies, performance measures and resources for April 2001 to March 2004. The plan has been developed in response to British Columbia's July 2000 *Budget Transparency and Accountability Act*, which established an accountability framework and performance reporting structure for ministries and other government organizations.

DEFINITIONS

For the purposes of this document, the following definitions apply:

"Act" means the *Farm Practices Protection (Right to Farm) Act.*

"ADR" means Appropriate Dispute Resolution, including mediation, facilitation, conciliation and arbitration.

"Agriculture" means farm operations that are conducted in accordance with normal farm practices, and which are conducted on, in, or over land in the Agricultural Land Reserve or on land on which, under the *Local Government Act*, farm use is allowed.

"Aquaculture" means the growing and cultivating of aquatic plants, as defined in section 12 of the *Fisheries Act*, or of fish, for commercial purposes, in any water environment or in human-made containers of water, and includes the growing and cultivating of shellfish on, in, or under the foreshore or in water, in accordance with normal farm practices for aquaculture.

"BCMB" means the British Columbia Marketing Board.

"Board" means the members constituted as the Farm Practices Board under the *Act* (as distinct from the "FPB").

"BTAA" means the *Budget Transparency and Accountability Act.*

"Chair" means the chair of the Farm Practices Board, appointed pursuant to the *Act.*

"Decision" means a decision of the chair of the board, or a panel of the board, made under a power or right conferred by the legislation.

"Environmental scan" means a summary of the main external factors that affect performance, with an analysis of the external economic and business environment for the planning period and an assessment of the organization's recent performance.

"Farm operation" means any of the following activities involved in carrying on a farm business:

- growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals,
- clearing, draining, irrigating or cultivating land,
- using farm machinery, equipment, devices, materials and structures,
- applying fertilizers, manure, pesticides and biological control agents (including ground and air spraying), and
- conducting any other agricultural activity on, in or over agricultural land, and includes:
  - intensively cultivating in plantations, any specialty wood or specialty fibre crops prescribed by the minister (presently the *populus* and *salix* species are prescribed),

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- conducting turf production outside of the Agricultural Land Reserve or in the Agriculture Land Reserve with the approval of the Land Reserve Commission,
- aquaculture as defined in the *Fisheries Act*,
- raising or keeping game, within the meaning of the *Game Farm Act*,
- raising or keeping fur-bearing animals, within the meaning of the *Fur Farm Act*, and
- processing or direct marketing by a farmer of the products of a farm owned or operated by the farmer, and/or within limits prescribed by the minister, products not of that farm, to the extent that the processing or marketing of those products is conducted on the farmer's farm,

but does not include:

- any activity, other than grazing or hay-cutting, if the activity constitutes a forest practice as defined in the *Forest Practices Code of British Columbia*,
- breeding pets or operating a kennel, or
- growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by the minister (presently alpaca, llama, musk ox, emu, ostrich, rhea, partridge species, pheasant species, quail, silkie and squab are prescribed).

"FPB" means the members of the Farm Practices Board, together with the organization and staff employed to administer the *Act* (as distinct from the "Board").

"Government agency" means a corporation or other organization that is within the government, other than the government itself.

"Interested persons" means persons with pressing and substantial interest in an issue.

"Intervenor" means a person who is not a party to a formal complaint, but who has a direct interest – as determined and approved by the chair or a panel of the board – in a matter that is the subject of the complaint.

"Legislation" means the *Act* and the regulations and rules made under the *Act*.

"Member" means a member appointed to the FPB pursuant to the *Act*.

"Minister" means the B.C. Minister of Agriculture, Food and Fisheries.

"Ministry" means the B.C. Ministry of Agriculture, Food and Fisheries.

"MOU" means a Memorandum of Understanding between the FPB, the minister, the ministry, or another government agency.

"Normal farm practice" means a practice that is conducted by a farm business in a manner consistent with proper and accepted customs and standards, as established and followed by similar farm businesses under similar circumstances, and any standards prescribed by the Lieutenant-Governor-in-Council.

"Party" means the complainant (neighbour) or respondent farmer in a formal complaint (see also "Intervenor").

"Person" means an individual, partnership or corporation.

PROFILE AND MANDATE

The FPB is the statutory body responsible for providing a fair, equitable and timely process in British Columbia for resolving farm practice disputes out of court. Established in 1996 under the *Act*, the FPB functions as an independent administrative tribunal, hearing complaints about odour, noise, dust and other disturbances arising from farm practices.

Where possible, the FPB promotes dispute resolution without the need for formal panel hearings. For farmers, local governments, and the public, the FPB is an impartial body that can determine whether a farmer follows "normal farm practices." The FPB adheres to the principles of natural justice and administrative law in this quasi-judicial role.

The FPB may also, under the *Act*, conduct studies and make recommendations concerning any matter related to farm practices. These activities may be on the FPB's own initiative, or at the request of a municipality, a regional district, or a trust council under the *Islands Trust Act*. The minister may also order the FPB to study or make recommendations on any matter related to farm practices.

The FPB consists of the members of the BCMB, and as many as 10 additional members appointed by the minister. Board members represent both farming and non-farming interests across the province. Criteria for appointments include a background in farming or local government, community planning experience, or skills in earth sciences, or experience in dispute resolution.

The FPB is accountable to government for its administrative operations, but independent of government in its decision-making. FPB decisions can be appealed to the B.C. Supreme Court, but only on a question of law or jurisdiction. In providing a fair and equitable process for resolving farm practices disputes, the FPB presents a cost-effective alternative to the court system.

STRATEGIC OPERATION

VISION

Through its decisions and studies, the FPB contributes to establishing and maintaining a cooperative environment in which a viable and strong farming community co-exists with the non-farming community.

MISSION

To promote a better understanding of farm practices, provide fair and effective dispute resolution and inquiry processes, and help the farming and non-farming communities reduce conflict, resolve issues, and promote mutual understanding of each other's concerns.

VALUES

In exercising its responsibilities, the FPB will act with integrity. In delivering its mandate, it will:

- maintain its independence as an administrative tribunal,
- maintain transparency and be open to consultation with all interested persons,
- conduct business with discretion and in confidence,
- provide impartial, timely and consistent decision-making,

- maintain and develop member and staff expertise through effective professional development, and
- exercise fiscal responsibility and administer its operations efficiently.

ENVIRONMENTAL SCAN

FARMING IN BRITISH COLUMBIA TODAY

Today, farming is found in almost every corner of B.C. Much of the province's agricultural activity takes place adjacent to urban areas, and aquaculture activity can be located in pristine coastal areas that are also important to the tourist industry.

At the same time, a growing number of British Columbians are choosing to move from urban surroundings, to live as non-farm residents in farming or fishing communities. They are attracted to the pastoral surroundings, open spaces, and perceived rural lifestyle, but since most urban British Columbians have not grown up with a direct connection with a farm or the farm community, their views about farming may be unrealistic.

Farms today represent modern business operations – from small to very large – that demand a significant commitment in resources, expertise and plain hard work from their owners. A farmer's scope may be local, but his or her horizon must now be global. In addition to unpredictable weather-related risk management, a farmer must keep pace with international trade agreements, increasingly competitive global markets, and changing consumer preferences. And for both farmed lands and waters, environmental and wildlife protection remain high on the public agenda. This convergence of market, consumer, technological and cultural factors presents challenges to responsible, sustainable farming, and it has stimulated whole-scale transition in some of the province's longest-standing commodities.

LIVING NEXT DOOR TO FARMING

Despite these sweeping changes, farming is still heavy, site-based work. Predictably, some farming activities generate noise, dust, odours and other disturbances. These may include operating farm machinery, bird-scaring equipment, frost protection machines, fish-farm power generators, and bright lights in greenhouses, and spreading manure, spraying crops, and moving farm vehicles or boats.

Many farm activities must take place early in the morning, late in the evening, or on weekends, when other business activities may be idle and many non-farm citizens are at home. Farm activities may also change over time, as farmers adopt new technologies.

The parallel trends to urban expansion and intensified farming are two different but vital parts of the British Columbia landscape today. It benefits all British Columbians when we find efficient, effective ways to confront issues of common concern and solve disputes as quickly and agreeably as possible.

RECENT PERFORMANCE

Following the release of its May 1999 report on the use of propane cannons in agriculture, the FPB met with the ministry, the BC Horticulture Coalition, the B.C. Blueberry Council and the B.C. Fruit Growers' Association. The implementation of the FPB's recommendations on the use of propane cannons continues.

In 2000, the FPB issued decisions that further addressed the use of propane cannons in agriculture and confirmed that the federal *Migratory Birds Regulations* did not limit the FPB's jurisdiction to hear cannon complaints.

FPB staff have participated, on an informal basis, with the ministry, the Township of Langley, the Greater Vancouver Regional District (Air Quality Branch), and the South Fraser Health Region in reviewing issues between a Langley duck farm and its neighbours. This review has highlighted the value to the FPB of establishing and maintaining links with local government, health and environment agencies which, within their respective jurisdictions, often deal with the same issues as the FPB.

Four formal complaints were filed in the 2000/01 fiscal year. With carry-overs, a total of five complaints were administered. One was heard and decided by the FPB; the remaining four were at various stages of the settlement process (i.e., reaching agreement without recourse to formal hearings) at the time of this report.

Nineteen complaints have been received by the FPB in its first five years. The settlement process continues to be the most effective method of resolving the majority of these disputes between neighbours. However, the increasing sensitivity, volatility and complexity of these interest-based disputes, along with their potential effects on both the farming and non-farming communities, raise issues that are sometimes best heard and decided by an FPB hearing panel.

Three new FPB members were appointed in 2000/01 and given familiarization training.

KEY STRATEGIC ISSUES

Though exceptionally diverse, food production in B.C. is intense and highly concentrated. More than 70 per cent of agriculture receipts are generated in two relatively small areas of the province – the Lower Mainland and the Fraser Valley. Living in such close quarters with major urban populations poses challenges to both the farming and non-farming communities, as they try to establish new relationships and workable rules for co-existence.

Key strategic issues that the FPB and the farming and non-farming communities face now and will face in the near future include the following:

- There is increasing friction due to "urban sprawl." Pressure on agriculture and aquaculture operations from increased residential density and recreational usage includes environmental impacts such as increased water runoff, traffic and trespassing.
- The face of farming is changing. Larger, more complex and intensive farm operations, such as greenhouses, fish farms and on-farm processing or direct marketing activities, can have a greater effect on neighbouring properties (e.g., a higher volume of noise and odours), roadways (e.g., increased service and customer traffic), other local infrastructure (e.g., waste-disposal systems), and, potentially, on the environment.

- Farmers need to be constantly aware and assess the effects on their neighbours of non-traditional farm activities. Just as traditional public perceptions of farming can lead to misunderstandings of large, modern farm operations, there is also a need to familiarize the non-farming community with existing and emerging agriculture and aquaculture practices, and the reasons for them.
- An increase in wildlife populations, as a result of protection efforts, has meant increased losses to farmers. Consequently, costly and sometimes noisy or otherwise disruptive measures may be employed to protect crops and farm animals.
- There is an increasing economic and regulatory burden placed on farms, primarily from health and environment agencies. Farmers must often deal with the complexities of overlapping jurisdictions (e.g., a farm practices issue may involve the FPB as well as health, environment, local government and provincial ministry authorities).
- There is insufficient proactive land-use planning by local governments, which frequently results in bylaws that place more restrictions on farmers in response to increasing residential density.
- There are insufficient ministry farm practices guidelines and informal dispute resolution processes for aquaculture.
- Understanding is needed among both farming and non-farming communities of the *Act* and the work of the FPB.
- The FPB needs to better understand the sometimes unique practices used in aboriginal agriculture and aquaculture.
- The FPB faces a chronic lack of resources.

STRATEGIC GOALS, OBJECTIVES, KEY STRATEGIES AND PERFORMANCE MEASURES

The FPB's main strategic goal is to support the B.C. agriculture and aquaculture industries and the public interest by fostering an acceptance of normal farming practices and providing a fair and effective process for resolving farm practices disputes.

Within that goal, the FPB has identified four key strategic objectives for 2001/02 to 2003/04.

STRATEGIC OBJECTIVE 1

To provide a fair and impartial process for resolving farm practices disputes.

KEY STRATEGIES	PERFORMANCE MEASURES
Ensure that the mandate of the FPB and its complaints process are known and understood by the farming and non-farming communities.	1. By June 2001, distribute the *Filing a Complaint With The Farm Practices Board* brochure to ministry offices, government agencies, local governments, and industry organizations. 2. Prepare an FPB annual report, for tabling by the minister by June 30 each year. 3. By July 2001, create an FPB communications plan for conveying FPB-related issues to the farming community, the non-farming community, and others. 4. Meet with the minister and senior ministry officials at least annually. 5. By December 2001, create an FPB website. 6. By March 2002, establish a new MOU with the minister.

KEY STRATEGIES	PERFORMANCE MEASURES
Maintain responsive, timely and instructive dispute-resolution processes that promote Appropriate Dispute Resolution alternatives.	1. By October 2001, arrange basic mediation training for all board members. 2. By December 2001, prepare and provide an advanced mediation course for all board members and senior staff. 3. By March 2002, review and update the existing complaint policies, practices and procedures of the FPB and develop new ones as required. 4. By May 2002, publish an FPB manual of complaint policies, practices and procedures. 5. By June 2002, ensure that all board members have received training that is equivalent to the B.C. Council of Administrative Tribunals' Basic Foundations Course training in: Administrative Law and the Principles of Natural Justice; Conducting Fair Hearings and Evaluating Evidence; Decision Making and Writing; and Independence, Accountability and Ethical Conduct. 6. Continue issuing decisions in complaints which educate the farming and non-farming communities in the purpose of the *Act*, the role of the FPB, and issues related to agricultural and aquacultural practices.

STRATEGIC OBJECTIVE 2

To identify, study and report on key issues related to farm practices.

KEY STRATEGIES	PERFORMANCE MEASURES
Improve understanding and acceptance of normal farm practices by both the farming and non-farming communities.	1. By December 2001, review existing ministry publications (i.e., on agriculture and aquaculture) that provide advice and guidance on farm practices and planning issues to local governments and the public, and, if appropriate, provide recommendations to the ministry for new or improved materials. 2. By March 2002, develop and publish FPB guidelines and practices for the initiation and conduct of inquiries by the FPB, under section 11 of the *Act*, into matters related to farm practices. 3. By March 2003, to discuss farm practices issues of mutual concern and establish effective strategies to address these issues, meet with the Land Reserve Commission, officials from the ministry (including BC Fisheries), the Ministry of Municipal Affairs, the Ministry of Aboriginal Affairs, selected local governments, health and environmental agencies, and the B.C. Agriculture Council and other agriculture and aquaculture industry organizations.

KEY STRATEGIES	PERFORMANCE MEASURES
	4. By October 2003, arrange and conduct FPB tours of appropriate agricultural and aquacultural operations to familiarize the board and staff with the practices used by farm operations in these industries. 5. By March 2004, establish a resource library for the FPB.

STRATEGIC OBJECTIVE 3

To ensure that the *Act* provides the mandate and authority necessary for the FPB to effectively address issues related to farm practices.

KEY STRATEGIES	PERFORMANCE MEASURES
Respond to issues and concerns about legislation and policy which have been identified to the FPB by parties to complaints, and by the farming and non-farming communities at large.	1. By December 2001, follow up with the minister the FPB's recommendations to the Select Standing Committee on Agriculture and Fisheries that the *Act* be changed to permit the FPB to enforce its complaint decisions, and to authorize farmers to seek a ruling on "normal farm practices" from the FPB in respect of the farmer's own operation. 2. By December 2001, review, assess and advise the minister on the suggestion, in the *Vancouver Island Agri-Food Action Plan and Trust Strategy*, that the FPB be considered as an option in establishing an office designated to exercise ombudsman-type functions in relation to agri-food issues.

STRATEGIC OBJECTIVE 4

To ensure that the FPB is administratively effective and efficient.

KEY STRATEGIES	PERFORMANCE MEASURES
Identify and address existing issues affecting FPB administration.	1. By June 2001, review staffing requirements and revise staff job descriptions. 2. By January 2002, establish a professional development program for FPB staff. 3. By September 2002, update the existing FPB administrative policies manual to reflect changes to other FPB policies concerning complaints and section 11 inquiries, as well as any other changes to FPB operations arising from this *Performance Plan*.

RESOURCES

FARM PRACTICES BOARD/
BRITISH COLUMBIA MARKETING BOARD
BUDGET PROJECTIONS
2001/02-2003/04

	2001/02	2002/03	2003/04	Current 2000/01
		($)		
FPB				
Travel and Per Diems – Members	40,000	43,000	46,000	35,000
Travel – Chair and Staff	10,000	11,000	12,000	9,500
Contracted Services	4,000	5,000	6,000	3,500
Legal/Consulting	3,000	4,500	6,000	2,300
Meetings/Hearings/ Office Expenses	7,000	8,000	9,000	5,700
Training	20,000	20,000	20,000	—
FPB Subtotal	**84,000**	**91,500**	**99,000**	**56,000 ***

	2001/02	2002/03	2003/04	Current 2000/01
			($)	
Salaries	415,000	430,000	437,000	390,000
Benefits	85,000	90,000	95,000	80,000
Travel and Per Diems – Members	160,000	168,000	176,000	151,000
Travel – Chair and Staff	38,000	40,000	42,000	36,000
Contracted Services	26,000	27,000	28,000	25,000
Legal/Consulting	55,000	60,000	65,000	51,000
Computer Services	3,000	4,000	5,000	5,000
Meetings/Hearings/ Office Expenses	40,000	45,000	50,000	35,000
Training	5,000	6,000	7,000	—
Advertising/Publications	2,000	3,000	4,000	1,000
Occupancy	68,000	60,000	62,000	66,000
BCMB Subtotal	**897,000**	**933,000**	**971,000**	**840,000**
COMBINED TOTAL	**981,000**	**1,024,500**	**1,070,000**	**896,000**

N O T E S

- *The BCMB provides administrative services for the FPB. These costs include salaries of approximately $75,000 and benefits of $15,000.
- Between them, the BCMB and the FPB have seven FTEs for 2001/02. Salaries and Benefits figures include provision for one additional FTE, due to start midway through the 2001/02 fiscal year.
- Meetings/Hearings/Office Expenses for 2001/02 include work station set-up costs for the additional FTE.
- Occupancy costs for 2000/01 include office moving. Costs for 2001/02 include leasehold improvements.

HOW TO CONTACT THE FARM PRACTICES BOARD

For information about the FPB and its work, please contact us:

by phone: 250-356-8964

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